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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Evaristo LOZANO-Gutierrez,

Defendant

Magistrate Docket No.

'08 MJ 1817

JUN 11 AM 10:29

COMPLAINT FOR VIOLATION OF:


Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **June 10, 2008** within the Southern District of California, defendant, **Evaristo LOZANO-Gutierrez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 11th DAY OF JUNE, 2008.


Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT

On June 10, 2008, Border Patrol Agent G. Ballesteros was performing his assigned duties in the Campo, California area of responsibility. Agent Ballesteros responded to seismic intrusion device in an area approximately 20 miles east of the Tecate, California port of entry, less than one mile north of the United States/Mexico international border.

Agent Ballesteros arrived in the general location and observed fresh footprints heading north on a trail. Agent Ballesteros followed the footprints north until he encountered six individuals attempting to conceal themselves in some brush. Agent Ballesteros immediately identified himself as a United States Border Patrol Agent and questioned each subject as to their citizenship and immigration status, including one later identified as defendant **Evaristo LOZANO-Gutierrez**. All six individuals admitted to being citizens and nationals of Mexico without the proper documents to enter or remain in the United States legally. At approximately 11:00 a.m., all six were arrested and transported to the Border Patrol Station in Campo, California for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **May 27, 2008** through **Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.